

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

***INTERIM APPLICATION NO.3942 OF 2024
(FOR BAIL)***

IN

CRIMINAL APPEAL NO.836 OF 2024

1. Dhiraj Anil Dhagare
 2. Anil Bapu Mane
 3. Rajendra Raosaheb Kamble
 4. Babasaheb Bhagwan Harane
- ...Applicants
(Orig. Accused Nos.7 to 9 & 12)

Versus

The State of Maharashtra

...Respondent

WITH

***INTERIM APPLICATION NO.3944 OF 2024
(FOR BAIL)***

IN

CRIMINAL APPEAL NO.836 OF 2024

Amit Arjun Falle

...Applicant
(Orig. Accused No.1)

Versus

The State of Maharashtra

...Respondent

WITH

***INTERIM APPLICATION NO.3341 OF 2024
(FOR BAIL)***

IN

CRIMINAL APPEAL NO.896 OF 2024

Jagannath @ Jaggu Kerba Chougule

...Applicant
(Orig. Accused No.11)

Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Sachin Deokar a/w Mr. Vignesh Ashokan, for the Applicants in IA/3942/2024 and IA/3944/2024.

Ms. Savy Kolhekar i/b Mr. Aniket Vagal, for the Applicant in IA/3341/2024.

Mr. V. B. Konde-Deshmukh, Addl.P.P. for the Respondent-State in IA/3942/2024 and IA/3944/2024.

Mr. V. N. Sagare, A.P.P. for the Respondent-State in IA/3341/2024.

***CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.***

DATE : 8th OCTOBER 2024

P.C. :

1. By the aforesaid applications, the applicants seek suspension of their sentence and enlargement on bail, pending the hearing and final disposal of their aforesaid appeals.

2. The applicant in Interim Application No.3944 of 2024 is original accused No.1, whereas the applicants in Interim Application Nos.3942 of 2024 are original accused Nos.7 to 9 & 12 and applicant

in Interim Application No.3341 of 2024, is original accused No.11, respectively.

3. All the aforesaid applicants alongwith other co-accused have been convicted by the learned Special Judge, MCOC Act, Pune, by judgment and order dated 16th July, 2024 passed in Special MCOCA Case No.05 of 2015, for the offences punishable under Sections 302, 352, 143, 147, 148, 149 of the Indian Penal Code; Section 4(25) of the Indian Arms Act; Section 37(1) r/w section 135 of the Maharashtra Police Act; and Section 3(1)(i), 3(1) (ii), 3(4) of the Maharashtra Control of Organized Crime Act. For the offence punishable under Section 302 and one of the Sections of the MCOCA, the applicants have been sentenced to suffer rigorous imprisonment for life.

4. Learned counsel for the applicants seeks bail on the ground of parity i.e. parity with co-accused–Amit Chandrakant Ghadge, Ashutosh @ Pinkya Ashok Butte-Patil, Anil Tukaram Somwanshi and Anil Subhash Rakh. He further also seeks bail on the

ground of long incarceration of the applicants i.e. for more than 9 years.

5. Perused the papers. We vide order dated 24th September 2024 had suspended the sentences and enlarged the co-accused stated aforesaid on bail, on certain terms and conditions, stipulated in the said order. Whilst enlarging the co-accused on bail, we in para 5 of our order dated 24th September 2024, have observed as under:-

“5. Perused the papers. The prosecution case essentially rests on the evidence of two eye witnesses i.e. PW 5-Manoj Maruti Kadam and PW 6-Sandip Eknath Chavan. Having perused the evidence of PW 5- Manoj Kadam, we do not find that the said witness had seen the actual assault in question or witnessed the incident of assault. As far as PW 6-Sandip Chavan is concerned, he is a distant relative of deceased- Sachin. His statement was recorded on 4th October, 2014, after almost 8 to 9 days of the incident and supplementary statement on 11th January, 2015. The evidence of PW 6 prima facie shows that despite several opportunities he had not disclosed the fact of witnessing the incident till the police recorded his statement on 4th October, 2014. Admittedly, no confessional statements were recorded under Section 18 of the MCOC Act. It is not in dispute that one of the applicants is in custody for more than 8 years and others, for more than 9 years. Since the applicants’ appeal is of

2024, the same is not likely to be heard in the immediate near future. ”

6. Mr. Konde-Deshmukh, learned Additional Public Prosecutor as well as Mr. Sagare, learned APP do not dispute the fact that the role of the aforesaid applicants is similar to that of the co-accused, whose sentences have been suspended and who have been enlarged on bail. They, however, submits that similar conditions be imposed on the applicants as imposed on the co-accused, considering that the applicants have antecedents, although in some of the cases they have been acquitted.

7. Considering the aforesaid on the ground of parity and on the ground of long incarceration, the aforesaid applications are allowed and the applicants sentences are suspended and they are enlarged on bail, pending the hearing and final disposal of their appeals, on the following terms and conditions :-

ORDER

- i) The applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- each with one or more local sureties in the like amount;
- ii) The applicants shall not enter the jurisdiction of Pune District for one year from the date of their release;
- iii) The applicants during the said period i.e. one year shall attend the concerned police station where they would be residing i.e. on first Saturday of every month;
- iv) After one year, the applicants are permitted to enter the Pune District, however, the applicants shall report the Hadapsar Police Station, Pune, on the first Saturday of every month between 10:00 a.m. to 2:00 p.m.;

v) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vi) Needless to state, that upon breach of any of the conditions, it is always open to the prosecution to file an application seeking cancellation of the applicants' bail.

8. All the aforesaid applications are allowed in the aforesaid terms and are accordingly disposed of.

All concerned to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.